

JP

Notice of Allowability	Application No.	Applicant(s)	
	10/762,554	HERELIER, PATRICK	
	Examiner	Art Unit	
	Brian Nash	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone interview 9/13/2005.
2. ☒ The allowed claim(s) is/are 10-28.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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DETAILED ACTION

Examiner's Comments

1. This action is in response to applicant's amendment received 7/5/2005. Applicant cancelled claims 1-8 and added new claims 9-28.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kien Le for Benjamin Hauptman at 703-684-1111 on 9/13/2005.

The application has been amended as follows:

Claim 9 has been cancelled;

Claim 10 has been replaced with --A fastening apparatus, comprising: a muzzle; a piston slidable within and along an axis of the muzzle for driving fasteners out of the muzzle; a lateral positioning member having a plurality of different, lateral bearing surfaces and being moveable relative to said muzzle so as to bring any of the different, lateral bearing surfaces to a reference position in which said lateral bearing surfaces are spaced from the axis of said muzzle by different distances, respectively, and in which said lateral bearing surfaces are placeable against a side of a workpiece, to whereby allow positioning of said muzzle at said different distances

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from the side of the workpiece; and wherein said lateral positioning member is rotatably attached to said muzzle.

In claim 18, line 1, the “9” was replaced with --10--;

In claim 19, line 8, “and” was deleted;

In claim 19, last line, “muzzle.” was replaced with –muzzle; and wherein said lateral positioning member is moveably attached by said elongated fastening element to said muzzle, whereas said axial positioning member is immoveably fixed by said elongated fastening element to said muzzle.--

Claim 20 was cancelled;

In claim 21, line 1, “20” was replaced with --19--.

Reasons For Allowance

3. The following is an examiner’s statement of reasons for allowance: The prior art of record fails to anticipate or show in combination a fastening apparatus comprising a muzzle, a piston slideable within the muzzle along an axis for driving fasteners out of the muzzle, and;

Regarding claims 10 and 24; a lateral positioning member having a plurality of different, lateral bearing surfaces and being moveable relative to the muzzle at different distances from the muzzle axis and wherein the lateral positioning member is rotatably attached to the muzzle.

Regarding claim 19; a lateral positioning member for adjusting a distance from the end of the muzzle to a surface of the workpiece and wherein the lateral positioning member is moveably attached by an elongated fastening element to the muzzle; and an axial positioning member for adjusting a distance from the end of the muzzle to a surface of the workpiece and wherein the

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elongated fastening element also immoveably attaches the axial positioning member to the muzzle. All pending claims are now allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wandel and Haytayan are cited to show related references.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is 571-272-4465. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at 571-272-4467.

The official fax number for this Group is: 571-273-8300

Brian Nash
9/15/2005



**SCOTT A. SMITH
PRIMARY EXAMINER**